

FEDERAL COMMUNICATIONS COMMISSION
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MAR - 8 2012

Oregon Public Broadcasting
7140 S.W. Macadam Avenue
Portland, OR 97219

In re: NEW(FM), Pendleton, OR
BNPFT-20000424ABU
Facility ID #123356

Petition for Reconsideration

Dear Applicant:

This refers to: (1) the above-captioned application dismissed on July 3, 2008 and (2) the August 8, 2008 petition for reconsideration ("Petition"). For the reason stated below, the Petition will be denied.

Oregon Public Broadcasting ("OPB") is the licensee of FM station KRBM(FM), Pendleton, Oregon, and proposes to construct a new FM translator to serve Pendleton, Oregon. Staff dismissed the translator application on July 3, 2008 for violating 47 C.F.R. § 74.1204(a) because the proposed 100 dBu interfering contour overlaps the 60 dBu protected contour of second-adjacent channel station KRBM(FM).

The applicant filed a Petition for Reconsideration of the dismissal on August 8, 2008, requesting reconsideration based on the fact that the proposed translator would be a co-owned fill-in proposal to primary station KRBM(FM), and because "areas of Pendleton are shadowed from reception of KRBM."

Reconsideration is appropriate only when the petitioner either shows a material error or omission in the original decision or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters.¹ The Petitioner fails to demonstrate such an error. Nor does it raise any such additional facts.

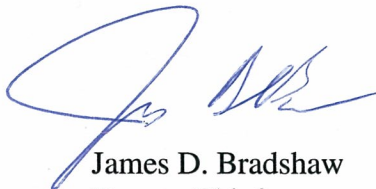
¹ See 47 C.F.R. Section 1.106(c); *WIZ, Inc.*, 37 F.C.C. 685, 686 (1964), *aff'd sum nom.*, *Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966), 18 FCC Rcd 24414, 24415.

Section 74.1204(e) provides an exception to the overlap requirements of Section 74.1204(a) under certain circumstances. Specifically, Section 74.1204(e) states that Section 74.1204(a) does not apply if the translator is fill-in translator, is a first, second or third adjacent frequency to the primary station's frequency and does not cause interference in the city of license of the primary station. OPB proposes to locate its translator antenna on the roof of Blue Mountain Community College in Pendleton. OPB indicates in the Petition that the interfering contour will extend "866 meters from the antenna" and "there is very little populated area within this 866 meter radius." We must therefore conclude that the proposal remains in violation of Section 74.1204, because the 100 dBu interfering contour overlaps a populated portion of Pendleton. OPB suggests that the staff failed to recognize that KRBM and the translator would be commonly owned. However, simply proposing a co-owned facility does not overcome the potential for interference within KRBM's community of license. We will therefore deny the Petition for Reconsideration.

In addition, on January 14, 2010, the staff granted a construction permit (BNPED-20071019ARV) for a new FM station ("KBLU-FM") in Pilot Rock, Oregon. The proposed translator's 40 dBu interfering contour overlaps the protected 60 dBu contour of KBLU-FM in violation of Section 74.1204. Even had we granted reconsideration and reinstated OPR's application, this defect would have required dismissal without further opportunity for amendment. This violation was not addressed.

Accordingly, the Petition for Reconsideration filed on August 8, 2008 by Oregon Public Broadcasting IS HEREBY DENIED.²

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Bradshaw', is written over a horizontal line.

James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

cc: Lawrence M. Miller

² Please note that an application dismissed a second time for any reason may not again be reinstated nunc pro tunc.